



BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

Advisory Opinion No. 04-008

A councilmember works as a consultant for a company that provides pharmaceutical, biotechnology, and medical device companies assistance in monitoring and data management for clinical trials. That councilmember seeks an advisory opinion regarding participation in a worksession on a resolution “to establish a voluntary program for securing safe, high quality, lower-priced prescription maintenance drugs for employees and retirees of county and bi-county agencies.”

Absent a waiver from the Commission, the ethics law prohibits a public employee from participating in any matter that affects, in a manner distinct from its effect on the public, any business in which the public employee holds an economic interest. We conclude that the councilmember can participate and vote on the resolution without violating the ethics law’s prohibition on conflict of interests in § 19A-11.

The Commission previously approved the councilmember’s request to engage in secondary employment as a consultant in life sciences business development. The councilmember presently works as a consultant for a company that provides pharmaceutical, biotechnology, and medical device companies assistance in monitoring and data management for clinical trials.

The County Council is considering a resolution “to establish a voluntary program for securing safe, high quality, lower-priced prescription maintenance drugs for employees and retirees of county and bi-county agencies.” This includes the importation of prescription drugs from Canada. Paragraph 10(e) of that resolution appears to exempt drugs developed or manufactured in the County’s biotech industry from importation. The councilmember writes that “the business for which I am currently consulting will not be directly affected by this resolution, and I do not personally stand to gain or lose financially because of the outcome of this resolution.”

We do not perceive any conflict under § 19A-11. The councilmember’s connection to the biomed industry is, at best, tenuous—the councilmember is not consulting directly for a biomed company, but rather for a company that, in turn, provides pharmaceutical, biotechnology, and medical device companies assistance in monitoring and data management for clinical trials. Under these facts, we do not believe that the councilmember’s participation in the worksession will require participation in a matter that affects business in which the councilmember holds an economic interest.

FOR THE COMMISSION:

Elizabeth K. Kellar, Chair

Date October 6, 2004